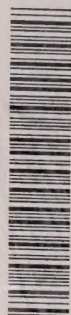


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Ontario Energy Board



IN THE MATTER OF APPLICATIONS BY

ICG UTILITIES (ONTARIO) LTD

FOR LEAVE TO CONSTRUCT A TRANSMISSION LINE

AND

FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY FOR THE TOWNSHIP OF THE FRONT OF LEEDS
AND LANSDOWNE

AND

TO RESTRICT THE CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY GRANTED TO THE CONSUMERS GAS
COMPANY LTD.

E.B.L.O. 236 & E.B.C. 196

DECISION WITH REASONS

Pour des renseignements en français, veuillez communiquer
avec la Commission de l'énergie de l'Ontario.

2300, rue Yonge

26e étage

Toronto (Ontario)

M4P 1E4

Téléphone 416/481-1967

(La Commission accepte les appels
à frais virés.)

**Ontario
Energy
Board**



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DECISION WITH REASONS

DECISION WITH REASONS

E.B.L.O. 236
E.B.C. 196

IN THE MATTER OF the Municipal Franchises Act,
R.S.O., 1980, Chapter 309, s.8;

AND IN THE MATTER OF an application by ICG
Utilities (Ontario) Ltd for a certificate of public
convenience and necessity to construct works to supply
gas and to supply gas to the inhabitants of the Township
of The Front of Leeds and Lansdowne, in the United
Counties of Leeds and Grenville.

AND IN THE MATTER OF the Ontario Energy Board
Act, R.S.O. 1980, Chapter 332, s.30, 46 and 48;

AND IN THE MATTER OF an application by ICG
Utilities (Ontario) Ltd for an order varying and restricting
the certificate of public convenience and necessity
granted to The Consumers' Gas Company Ltd. under
Board file number F.B.C. 262;

DECISION WITH REASONS

AND IN THE MATTER OF an application by ICG Utilities (Ontario) Ltd for leave to construct a natural gas transmission pipeline in the Township of The Front of Leeds and Lansdowne, in the United Counties of Leeds and Grenville.

BEFORE: C.A. Wolf Jr.
Presiding Member

P.W. Chapple
Member

R.R. Perdue, Q.C.
Member

DECISION WITH REASONS

December 14, 1990

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**Figure 1.1: Proposed NPS 4 Steel Transmission Line to
Community of Lansdowne**

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1. INTRODUCTION

1.1 BACKGROUND

1.1.1 The Township of The Front of Leeds and Lansdowne (the "Township") is situated to the east of Kingston in the United Counties of Leeds and Grenville. It is bounded by the Township of the Front of Escott to the east and the Township of Pittsburg to the west. The principal town in the Township is the Town of Gananoque ("the Town" or "Gananoque") which is situated on the north shore of the St. Lawrence River and is otherwise bordered by the Township. However, for municipal purposes, the Town and the Township are separate entities.

1.1.2 Gas service to the area began in 1957 when Lakeland Natural Gas Limited, now part of ICG Utilities (Ontario) Ltd ("ICG" or the "Company"), commenced serving Gananoque pursuant to a franchise and a certificate of public convenience and necessity issued by a predecessor of the Ontario Energy Board.

1.1.3 In 1958, Lakeland Natural Gas Limited, obtained a franchise for the Township, which, although it does not appear to have been executed by the Township, was renewed by the Ontario Energy Board ("the Board") in 1976. Also in 1958, a further franchise for the Township, as well as a certificate of public convenience and necessity, was approved for The

Consumers' Gas Company Ltd. ("Consumers Gas"). In 1977 that franchise was renewed for 20 years.

1.1.4 Although both Consumers Gas and ICG hold valid franchises for the Township, only Consumers Gas holds a certificate of public convenience and necessity. Pursuant to its certificate, Consumers Gas constructed a pipeline in the northwest area of the Township in 1958 to serve an electrical generating station owned by Gananoque Light and Power Limited.

1.1.5 Other than the generating station and four residential customers served directly from the transmission line supplying it, Consumers Gas does not serve any other customers in the Township. ICG presently serves three residential customers from that part of its Gananoque lateral which runs through the Township and one commercial customer in the Township from the eastern end of its Gananoque distribution system.

1.2 THE APPLICATIONS

1.2.1 On March 5, 1990 ICG applied to the Board for a certificate of public convenience and necessity pursuant to Section 8 of the Municipal Franchises Act, to permit it to construct works and supply gas to the entire Township, save and except that portion required to serve Gananoque Light and Power Limited and those other Consumers Gas customers presently being served directly from that line. As part of this application ICG also applied under Section 30 of the Ontario Energy Board Act ("the Act") to restrict the certificate of Consumers Gas to those customers it is presently serving. The Board assigned this application file number E.B.C. 196.

1.2.2 At the same time, the Company also applied under Sections 46 and 48 of the Act for leave to construct a transmission line from the TransCanada pipeline to serve the hamlet of Lansdowne, which is a community within the Township of some 207 houses situated about 2 kilometres north of

Highway 401 and about 15 kilometres east of Gananoque. The leave to construct application was assigned file number E.B.L.O. 236.

1.2.3 The map on the following page outlines ICG's proposed transmission line to serve Lansdowne and its surrounding area.

1.2.4 These applications were opposed by Consumers Gas on the grounds that it was premature to serve Lansdowne and in any case, it holds a valid franchise and certificate for the Township which entitles it to serve the whole Township including Lansdowne.

1.3 THE HEARING

1.3.1 The Board issued its Notice of Application on April 6, 1990, in which it notified interested parties how to intervene and how to apply for funding under the Intervenor Funding Project Act, S.O. 1988, c.71.

1.3.2 Procedural Order No. 1 was issued on May 10, 1990, giving direction for filing of interrogatories and intervenor evidence. Upon request from counsel for Consumers Gas, Procedural Order No. 2 was issued on June 22, 1990 giving a two week extension for the filing of its evidence.

1.3.3 A Notice of Hearing was issued on September 6, 1990 setting September 26, 1990 as the date for the commencement of the hearing.

1.4 APPEARANCES

1.4.1 The following parties were represented by Counsel:

ICG

Aleck Dadson

Board Staff

Kenneth Rosenberg

Consumers Gas

Peter Atkinson

1.5

WITNESSES

ICG called the following witnesses:

a) ICG personnel:

Donald Harvey	Manager, Distribution Development and Standards
Brent Bailey	General Sales Manager, Residential and Commercial
Rene Bourgeault	General Manager, Industrial Gas Utilization
Mary Silvestri	Manager of Financial Planning and Forecasting
Paul Pastirik	Manager, Financial Planning
Wayne Bingham	Manager, Regulatory Proceedings
Mark Wolnik	Vice-President of Operations

b) Others:

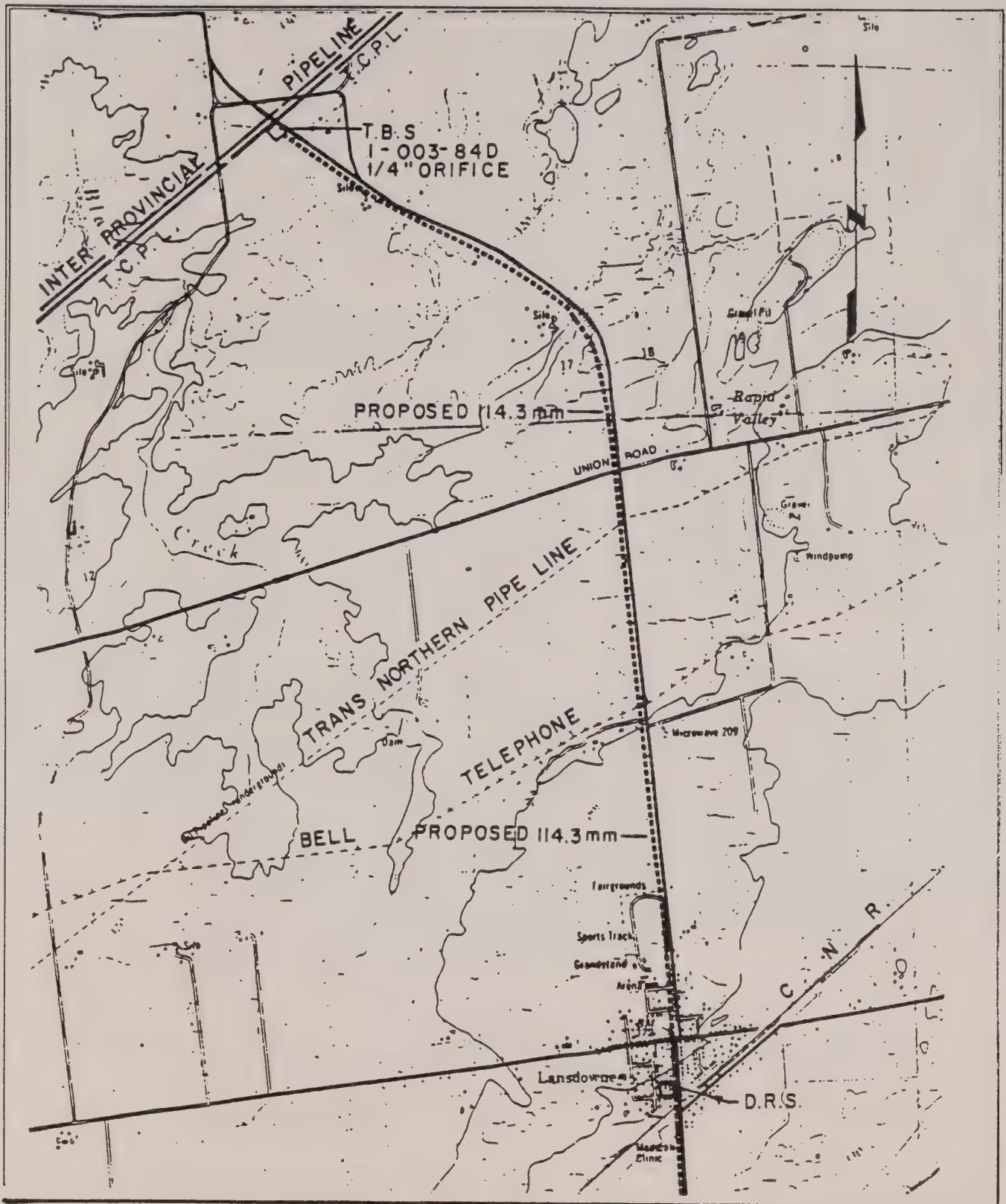
Peter Prier	Manager, Ecological Services for Planning Ltd.
Paul Breckenridge	Manager, Re/Max Loyalist Realty Limited
Richard Steele	Director, Lansdowne Distribution Centre

Consumers Gas called the following witnesses:

Anne Wilson	Manager, Financial Studies
Jim Nubel	Sales Manager, Eastern Region
Keith Walker	Vice-President, Regulatory Affairs
John Bayko	Director, Systems Operations

- 1.5.1 Bruce McReady, Reeve of the Township gave a statement to the Board. The hearing took place on September 26 and 27, 1990 and October 3 and 5, 1990. A copy of all exhibits and a verbatim transcript of the hearing are available for review at the Board's offices.

Figure 1.1: Proposed NPS 4 Steel Transmission Line to Community of Lansdowne



2. LEAVE TO CONSTRUCT APPLICATION

2.1 LANSDOWNE DISTRIBUTION CENTRE

2.1.1 Both ICG and Consumers Gas gave evidence regarding plans for an 800,000 square foot distribution centre in Lansdowne which is designed to take advantage of its proximity to major highways in New York State and the Toronto, Montreal, Ottawa shipping corridor.

2.1.2 Richard Steele, president of Richard D. Steele Construction (1979) Ltd., the developer for this project to be known as the Lansdowne Distribution Centre, testified that the signing of a free trade agreement between Canada and the United States provided an opportunity for the Lansdowne area to develop a large distribution centre where U.S. manufacturers could re-package and re-label their goods prior to distribution in Canada. His company has already spent about \$400,000 on the purchase of land and the development of site-specific plans. He told the Board that approximately 200 jobs would be created in the complex.

2.1.3 Mr. Steele testified that, although the financing was not in place and no leases had yet been signed, potential tenants have expressed considerable interest in the project, and design of the facility was complete except for the type of heating to be used.

- 2.1.4 If gas service is to be provided, ICG's forecast is that the building would require an annual heating load of $1,500 \text{ } 10^3 \text{ m}^3$. The Company has signed a letter of intent with Mr. Steele's company which provides for it to pay a grant-in-aid of construction of \$55,000 in the event that gas service is provided to the complex by July 1, 1991. Mr. Steele testified that his company would save approximately \$250,000 per year if natural gas was used rather than propane.
- 2.1.5 Mr. Dadson argued that it was a "reasonable and fair" conclusion that the Board should accept Mr. Steele's evidence that the project would begin construction in 1991 and be fully operational in 1992.
- 2.1.6 Consumers Gas, on the other hand, was not confident that the distribution centre would proceed as quickly as Mr. Steele believed it would. Mr. Atkinson argued that there were too many uncertainties connected with its immediate development and that it should not be included in any feasibility study until those uncertainties have been resolved.
- 2.1.7 Mr. Rosenberg agreed with Mr. Atkinson and argued that the distribution centre was still a concept, far from commencement of construction or even the issuance of a building permit, and "therefore cannot be considered as a probable development." He pointed out that the centre was expected to take about 54 percent of the estimated volume of gas which underpins the leave to construct application.
- 2.2 RESIDENTIAL CONNECTIONS**
- 2.2.1 ICG undertook a survey of residential and commercial customers in Lansdowne and determined that by the fifth year of service, 127 out of the existing 215 residential customers would convert to gas which, together with an estimated 55 new houses being built during the same period, would total 182 connections. ICG determined each residence would use an average of $3,042 \text{ m}^3$ of gas per year.

2.2.2 To support its forecast of new house connections, ICG called Paul Breckenridge, a developer who owns both residential and commercial developments near Lansdowne. He testified that construction of the 42 houses in the residential development would start in 1991.

2.2.3 Consumers Gas testified that it was not as optimistic as ICG about the number of potential residential connections. Its estimate determined that only 72 of 207 potential customers would convert to gas within five years, and that a further 25 newly constructed homes would be added during the same period. Consumers Gas evidence indicated that these would each consume an average of 2,800 m³ of gas per year.

2.2.4 Counsel for Board Staff pointed out that ICG's application for leave to construct, as filed, was only for the community of Lansdowne and the distribution centre, and that during the hearing, notwithstanding the provisions of Section 48 of the Act, ICG extended the boundaries of its application to include Mr. Breckenridge's two proposed developments as well as the Lansdowne Distribution Centre.

2.2.5 Mr. Rosenberg argued that Mr. Breckenridge's evidence on the timing for his two land developments was too optimistic and should not be accepted. Thus, he argued, ICG's new residential construction forecast should be lowered from 55 to 37 for the five year period commencing in 1990.

2.3 COMMERCIAL CONNECTIONS

2.3.1 ICG's survey indicated that a total of 52 existing and newly constructed commercial premises would be connected by the fifth year of service, with each having an average annual load of 10,007 m³. Again, the Company depended heavily on Mr. Breckenridge's forecast for its estimate of new commercial connections.

2.3.2 Following its less optimistic estimate, Consumers Gas forecast only 40 commercial connections for the first five years of service including only five resulting from new construction. Consumers Gas evidence was that the average annual load for each of these customers would be 6,000 m³.

2.3.3 Counsel for Board Staff argued that the commercial connections for new establishments should be greatly reduced from ICG's estimate to recognize, in part, the complete lack of commercial development in Lansdowne during the past five years. He argued that the forecast of Consumers Gas of only five new establishments might prove to be more accurate. However, he finally settled on 14 connections in the next five years as the appropriate number, which is ICG's forecast absent any spin-off development from the Lansdowne Distribution Centre.

2.4 CONSTRUCTION COSTS AND ENVIRONMENTAL IMPACT

2.4.1 ICG proposed to serve Lansdowne by tapping into the TransCanada pipeline where it crosses County Road 3 directly north of the community and install a 114.3 mm (NPS 4) steel transmission line to the community and then south to the planned Lansdowne Distribution Centre. The route is completely within the county road allowance except for a small portion where it crosses two privately owned parcels of land, for which ICG has obtained signed conditional easement agreements.

2.4.2 The necessary lands for its town border station at the TransCanada pipeline and its district regulator station within Lansdowne itself are under option by ICG. The downstream distribution system is to be constructed of plastic mains and services and the whole construction schedule is estimated to take 14 weeks.

2.4.3 Donald Harvey, who is ICG's manager of its Distribution and Standards Department, testified that the Company has a firm contract in the amount of \$1.2 million for the construction of the entire transmission and

distribution system to serve the community and the Lansdowne Distribution Centre.

2.4.4 Construction, he said, could begin within two weeks of Board approval. He also pointed out that the county had postponed re-paving the streets in Lansdowne to accommodate the installation.

2.4.5 The Company also testified that construction would adhere to the Board's environmental guidelines and that, because most of the route was within various road allowances, the effect on its surroundings would be negligible. While Board Staff took issue with the way ICG's environmental assessment was conducted, none of the parties refuted its conclusions. ICG undertook to abide by Board Staff's recommended Conditions of Approval dealing with construction techniques if the pipeline is approved by the Board.

2.4.6 Witnesses for Consumers Gas testified that the cost of extending the lateral from the TransCanada pipeline would be about the same for both utilities.

2.5 ECONOMIC FEASIBILITY AND GRANT IN AID OF CONSTRUCTION

2.5.1 As outlined earlier, ICG negotiated a grant-in-aid of construction of \$55,000 in order to connect the Lansdowne Distribution Centre. It was calculated that this amount would be required to increase ICG's Stage 1 profitability index for the project to unity assuming that the distribution centre was completed in 1990.

2.5.2 In its Stage 1 analysis, ICG used a discounted cash flow analysis in accordance with Board Report E.B.O. 134, with a discount rate of 11.86 percent over a 20 year period. As well, it calculated a profitability index for the project which is the ratio of the net cash inflows divided by the net cash outflows for the project. This is in accordance with the Report of the Board, E.B.O. 134 in regard to assessing the Stage 1 economic feasibility

of proposed system expansions for all gas utilities under the Board's jurisdiction.

- 2.5.3 During the hearing, ICG's witnesses testified that the original timetable for the Distribution Centre was too optimistic and that its completion date had now been postponed to 1992 which, by ICG's calculation, decreased the net present value of the whole project based on a 20 year time horizon to negative \$151,000 with a profitability index of .84. Mr. Dadson said that a one-time subsidy of approximately 20 cents from each of ICG's existing customers was necessary to raise the index to unity.
- 2.5.4 Assuming the same two year postponement and a social discount rate of 10 percent, the Stage 2 analysis, which is defined by E.B.O. 134 as a quantification of public interest factors inherent in supplying gas to new customers, determined that the project would generate \$1,751,000 in benefits over 20 years. These were calculated without taking into account the potential saving of \$250,000 per year which Mr. Steele testified could be achieved by the Lansdowne Distribution Centre using natural gas rather than propane. Without the two year delay, Stage 2 benefits were determined to be \$2,500,000.
- 2.5.5 Board Staff argued that the two year delay assuming a 30 year time horizon would raise the necessary contribution to \$119,000 and noted that ICG did not feel compelled to increase its required grant in aid of construction to compensate.
- 2.5.6 Mr. Dadson submitted that even if the distribution centre was delayed by two years, the effect on the project's economics was minimal. However, he agreed that if the distribution centre was excluded from the analysis altogether, the profitability index would drop to .62 and to .57 if the Breckenridge developments were also removed.

- 2.5.7 As outlined earlier, Board Staff was of the opinion that it was premature to include either the distribution centre or the two Breckenridge developments. Thus Mr. Rosenberg argued that ICG's profitability index should be lowered to .57.
- 2.5.8 He argued that if the project was approved there should be a contribution in aid of construction of \$321,000 which would bring ICG's profitability index to .84.
- 2.5.9 This, he said, would bring this decision into line with the Board's recent decision in regard to the Town of Deep River (E.B.L.O. 231) which required a contribution in aid of construction of such an amount so as to produce a feasibility ratio for Consumers Gas of .7 before any subsidy from its existing customers was taken into account. Board Staff calculated that because of differing methodologies, Consumers Gas benefit to cost ratio of .7 equals ICG's feasibility ratio of .84.
- 2.5.10 In agreeing with Board Staff, Consumers Gas pointed out that such a large grant in aid of construction was not likely to be forthcoming and that this was the reason why Consumers Gas did not file an application for leave to construct in competition to ICG's which Mr. Atkinson argued was premature.
- 2.5.11 Employing its less optimistic forecasts for customer attachments but assuming that the distribution centre would proceed within two years, Consumers Gas determined that its benefit to cost ratio was .08 and with the centre not proceeding, that ratio would drop to .02.
- 2.5.12 Mr. Atkinson argued that the Board should adjourn ICG's application if it finds that the Lansdowne project is feasible in order to permit Consumers Gas to file its own application for leave to construct.

2.6 BOARD FINDINGS

- 2.6.1 The Board generally encourages expansion of a utility's distribution system providing such extensions are economically viable and within the public interest. From a regulator's point of view, such extensions not only bring environmentally acceptable fuel to new customers, but also improve the efficient use of the distributor's assets and serve to lower costs to all its customers.
- 2.6.2 Every system expansion increases a utility's rate base and as a utility's income is determined by a return on that rate base, the Board must be assured that system expansion projects result in benefits commensurate with the costs of those expansions.
- 2.6.3 To ensure that system expansions do not impose undue financial burdens on existing customers, the Board employs the financial analyses outlined in the E.B.O. 134 Report.
- 2.6.4 The Board has recognized that broad public interest considerations dictate that existing customers of a utility may have to subsidize new extensions in their early years. The amount of this subsidy and whether or not it is undue, is often the primary focus of the Board's decision in regard to an application for system expansion.
- 2.6.5 Without this testing, the division of costs and benefits between a utility's shareholders and its customers could result in the shareholders receiving a benefit from investments which are not economically sound and which are being unduly subsidized by the customers.
- 2.6.6 In this case, the project's feasibility depends for the most part on whether or not the Lansdowne Distribution Centre proceeds. Without this commercial impetus, Lansdowne will likely continue to be a community growing slowly.

- 2.6.7 The Board is concerned that the optimism of Mr. Steele and Mr. Breckenridge, as reflected in ICG's proposal, is not of itself sufficient to persuade the Board to approve the system expansion. Clear proof that the Distribution Centre will be constructed is required. Without this commercial enterprise, or an off-setting contribution in aid of construction, a subsidy from existing ICG customers of almost half the project's estimated costs would likely be required since the Centre itself is forecast to take about 54 percent of the volume of gas for the whole expansion project.
- 2.6.8 In the Board's view, Mr. Steele's assurance that he will not proceed with construction of the centre without at least 50 percent of the building being leased is an understandable caution on the part of the individual who will probably bear the financial brunt of any failure. It is the Board's opinion that it too should proceed with the same degree of caution. At this stage, there are no leases for the building and no outside financial commitments.
- 2.6.9 As well, both of Mr. Breckenridge's projects proposed for just south of Lansdowne, are almost completely dependent upon the building of the Distribution Centre, (or some as yet undisclosed comparable project), and the Board therefore considers that they too are in some doubt at least for the immediate future.
- 2.6.10 The Board will not approve a project which is so heavily dependent on one facility whose future is simply not assured. The Board finds that the removal of both the Centre and the Breckenridge projects from ICG's proposed system expansion, results in an unreasonable subsidy being required from its existing customers and that the proposed system expansion into Lansdowne is not within the public interest. The Board therefore denies ICG's leave to construct application.

DECISION WITH REASONS

3. **DIFFERENCES IN STAGE 1 ECONOMIC FEASIBILITY TESTS**

3.1 **INTRODUCTION**

3.1.1 Over and above the obvious differences of opinion between ICG and Consumers Gas as to the viability of the distribution centre and the Breckenridge developments, this case illustrated another difference characterized more as a difference in fundamental principles than a difference in judgment: What are the financial ingredients and methods to be used in determining economic feasibility?

3.1.2 All utilities under the Board's jurisdiction employ certain tests to determine if a particular system expansion is viable and meets the Board's requirements set out in E.B.O. 134. As indicated in the previous chapter, for a Stage 1 analysis, ICG employs a profitability index while Consumers Gas uses what it terms a benefit-to-cost ratio.

3.1.3 Both of these produce results which the Board has previously accepted as an aid to evaluate that utility's proposed system expansion. The question that has now arisen is: are the E.B.O. 134 guidelines appropriate and specific enough for the evaluation of the same project by competing utilities?

3.1.4 The formulae which produce these ratios are different and thus it is not surprising that even if the forecasts of connections and sales volumes are

identical, each utility will produce a different Stage 1 result. However, this case illustrated that even if the forecasts and the formulae are identical, the results will be different for each utility largely because of different gross distribution margins.

3.2 POSITIONS OF THE PARTIES

3.2.1 As part of the evidence in this hearing, both ICG and Consumers Gas were required to apply their accepted Stage 1 formulae to the same project assumptions. Consumers Gas determined a benefit-to-cost ratio of .7 using the same inputs used by ICG to produce its profitability index of .84. Some of the major differences are that:

- ICG deducts the interest tax shield on its capital as a cash flow in each year and Consumers Gas does not;
- ICG discounts cash flows using a before tax weighted average cost of capital and Consumers Gas uses an after tax cost of debt which produces a lower weighted average cost of capital;
- ICG treats capital cost allowance as a benefit and includes it in the numerator while Consumers Gas treats it as a reduction in the cost and it appears in the denominator.

3.2.2 As well, the two utilities assume different gas consumption for first year customers and the period for discounting capital expenditures is different for both utilities.

3.2.3 Mr. Atkinson argued that ICG's approach overstated the project's feasibility and that the Board should not rely on its results. He pointed out that unlike ICG, Consumers Gas used a long-run incremental gas cost in

its feasibility calculations to conform with E.B.O. 134. This results in an increase in the cost of gas of about \$0.015 per m³ over its average cost of gas. He argued that by not using the long-run cost of gas ICG does not include additional fixed storage costs or lost revenues as a result of the adverse load factor of the added load.

3.2.4 He argued that these, combined with the use of different gross distribution margins, will disadvantage Consumers Gas when competing with ICG in any leave to construct application and that the differences should be eliminated by combining the results of the net present value of the Stage 1 analysis with the benefits resulting from the Stage 2 analysis.

3.2.5 Mr. Atkinson submitted that the Board should require the use of net present value as the appropriate measure of Stage 1 feasibility as it provides the true magnitude of changes in economic feasibility.

3.2.7 Consumers Gas requested the Board to level the playing field between the utilities but not to adopt Board Staff's suggestion of utility specific financial ratios to reconcile the methodological differences between the utilities. Mr. Atkinson argued that such ratios applied to Stage 1 results would always favour the utility with the higher gross distribution margins resulting from its higher average cost of service and higher rates.

3.2.8 He also argued that E.B.L.O. 231 (Deep River) sets out the principle that Consumers Gas Stage 1 benefit-to-cost ratio had to be greater than 0.7 before the subsidy from existing ratepayers was taken into account. "It is evident ... that a utility that has an advantage in its Stage 1 calculation as a result of its higher rate structure has the advantage in servicing any new community." This, he said, is the case with ICG in this application.

3.2.9 Mr. Atkinson argued that the Board should follow the principles set out in E.B.L.O. 232 (Horseshoe Valley), which levels the playing field by, as he claimed, allowing the utilities to test the economic feasibility of system

expansion by adding the results of Stage 1 and Stage 2 analyses. Any disadvantage a utility had at Stage 1 because of lower rates would then be offset by increased fuel savings to the new customers at Stage 2.

3.3 BOARD FINDINGS

3.3.1 The problems which stem from the use of varying formulae only become obvious when more than one utility is competing to serve a particular area as in this case. The Board is then confronted with different Stage 1 feasibility analyses from each utility as well as a complete package of evidence from one utility justifying its practice and criticizing that of the other utility.

3.3.2 In the past, the Board has approved many non-competing system expansion projects using a Stage 1 analysis and in so doing, it has accepted the formula inherent in the utility's analysis. The Board recognizes that formulae for testing financial feasibility, like many other areas in utility regulation, are to a large degree, matters of opinion rather than fact and although a particular formula can be preferred over another, it is seldom possible, as in the current case, to conclude that all others are incorrect.

3.3.3 In the future therefore, when there are competing applications, the Board will welcome Stage 1 feasibility presentations from each utility employing their own formulae as well as their competitor's. Utilities could also follow the accepted practice of netting the cash flows in each period prior to discounting which would allow the additional advantage of permitting the calculation of an internal rate of return. However, as it has in the past, the Board again expresses its preference for the net present value approach.

3.3.4 The second problem outlined above is that in competing applications from ICG and Consumers Gas, ICG's Stage 1 ratio will always be higher. Even with identical forecasts and formulae the two utilities will not obtain similar Stage 1 results. Mr. Atkinson submitted that the results of Stage

1 and Stage 2 should therefore be added together in order to compensate for this disadvantage.

3.3.5 The differences in the results of Stage 1, (even using identical forecasts and formulae), arise because of the utilities' different gross distribution margins and costs as reflected in that utility's rates. The Board is of the opinion that this is not an unfair advantage. The Board finds that the differences in rates between ICG and Consumers Gas mean that the results of a Stage 1 analysis are peculiar to each utility as well as its customers and these results do not need to be reconciled.

3.3.6 The Board also finds that the results of Stage 1 and Stage 2 are much more useful if examined separately rather than combined as advocated by Mr. Atkinson. A negative Stage 1 result illustrates the subsidy to be paid by the existing customers and a positive Stage 2 result illustrates primarily the savings to the new customers. Adding subsidies by existing customers to savings by future customers doesn't give a very helpful result.

DECISION WITH REASONS

4. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

4.1 POSITIONS OF THE PARTIES

4.1.1 As outlined earlier, ICG applied for a certificate of public convenience and necessity for the whole Township. ICG, Mr. Dadson said, was requesting a certificate seeking those "further approvals that it needs in order to exercise the right, franchise and privilege given to it in 1976" when its municipal franchise was approved by the Board.

4.1.2 He referred to the Board's 1986 report on municipal franchises (E.B.O. 125), which pointed out that franchises were not exclusive, but if the Board was going to approve a second franchise in an area, it "would be required to determine if it is in the public interest ... [which] would include the economic feasibility of such supply and the impact on the system and customers of the first franchised utility."

4.1.3 Mr. Dadson submitted that this should be the test applied by the Board in the face of an application for a second certificate as in the present case. ICG's Application, he said, meets the economic feasibility criteria laid out in this test and the Lansdowne line will have no effect whatever on the facilities of Consumers Gas within the Township, which only serve Gananoque Light and Power Limited and four residential customers.

- 4.1.4 Mr. Dadson argued that Consumers Gas does not have an application for leave to construct the Lansdowne project, in spite of being afforded the opportunity.
- 4.1.5 He argued that ICG had a much greater presence in the Township than Consumers Gas because it serves the very heart of the area: Gananoque which has about 1,150 residential customers and that it has been doing so since about the time Consumers Gas started to serve Gananoque Light and Power Limited. As well, ICG serves the neighbouring townships and has a broad presence elsewhere in eastern Ontario, he said.
- 4.1.6 Mr. Dadson also pointed out that ICG was currently serving several customers within the Township for which it held no certificate. Two of these are homes and one is a school abutting the transmission line serving Gananoque and one is a commercial customer served off the Gananoque distribution system on Highway 2. As well, there are claimed to be a further 11 potential residential customers along the ICG lateral.
- 4.1.7 He took issue with the assertion by Consumers Gas that ICG's application "is really an invitation for utilities to invade the service territories of other utilities." He pointed out that this case was not of general application because here, both utilities hold a valid franchise to distribute gas in the Township and there are only a very few situations similar to this.
- 4.1.8 Mr. Atkinson argued that ICG had completely disregarded the Board's policy that there should be only one certificate for each municipality and that in the case of the Township of the Front of Leeds and Lansdowne, Consumers Gas was that utility.
- 4.1.9 He pointed out that the ICG customers living in the Township and not Gananoque are served illegally because ICG does not hold a certificate for the Township. All such customers, he argued, should be offered to

Consumers Gas and the assets specifically required to serve them should be transferred at their net book value.

4.1.10 Counsel to Board Staff segregated these customers into several sub-groups and argued that those residences along the Gananoque lateral should be served by Consumers Gas because it has the franchise, but if it declined to serve them, ICG should be granted a limited franchise for the area bordering the lateral to permit it to serve them.

4.1.11 The commercial customer located just outside the eastern boundary of Gananoque should be served by ICG primarily because of safety considerations, he argued, and ICG should be granted a limited certificate for this purpose.

4.2 BOARD FINDINGS

4.2.1 As a result of the Board's decision that the Lansdowne project is premature, the Board does not have to consider ICG's application for a certificate for the whole of the Township or its request that the certificate of Consumers Gas be restricted. However, the Board must comment on the fact that ICG is presently serving illegally four customers within the Township.

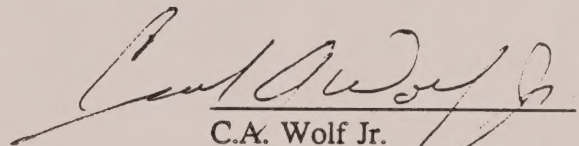
4.2.2 The Board has examined all the evidence in regard to this issue and is of the opinion that the principles set out particularly in its E.B.L.O. 225 Decision apply equally well to this case. That Decision deals with an application by Consumers Gas for the right to serve customers directly from a proposed transmission line through Hope and Hamilton townships where ICG held certificates. The Board held that ICG was properly certificated for the townships and that it should serve customers off the Consumers Gas line by utilizing the latter's Transportation Service. The Board finds that the facts of this case are on all fours with that Decision.

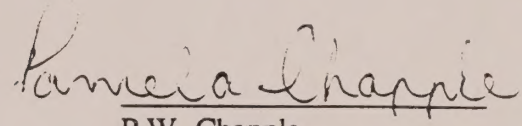
- 4.2.3 The Board, therefore, directs that ICG and Consumers Gas negotiate an arrangement, to be filed with the Board, to permit Consumers Gas to serve all current and potential customers abutting the ICG Gananoque lateral or its distribution system at Board approved rates. In default of such an arrangement being finalized within 30 days of the issuance of this Decision with Reasons, the Board directs both utilities to file their proposals in this regard with the Board. The Board will then determine the conditions under which that service shall be provided including, if necessary, the Transportation Rate and the transfer value for assets.
- 4.2.4 In the meantime, ICG shall continue to serve those customers currently taking gas and no interruption of that service shall be allowed to occur as a result of this Decision.

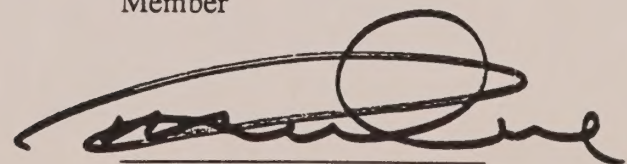
5. COSTS AND COMPLETION OF THE PROCEEDINGS

- 5.0.1 As an intervenor, Consumers Gas did not request costs. The Board's costs, however, shall be paid by ICG in the usual manner.
- 5.0.2 The Board directs ICG to prepare and submit to the Board within seven days a draft Order giving effect to the findings herein.

ISSUED at Toronto this 14th day of December, 1990.


C.A. Wolf Jr.
Presiding Member


P.W. Chapple
Member


R.R. Perdue
Member

